

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, *ex rel.*
CHARLES STRUNCK, *et al.*,

Plaintiffs,

v.

MALLINCKRODT ARD LLC.
(f/k/a Mallinckrodt ARD, Inc.;
f/k/a Questcor Pharmaceuticals, Inc.

Defendant.

Case No. 12-cv-0175

UNITED STATES OF AMERICA, *ex rel.*
SCOTT CLARK, *et al.*,

Plaintiffs,

v.

MALLINCKRODT ARD LLC.
(f/k/a Mallinckrodt ARD, Inc.;
f/k/a Questcor Pharmaceuticals, Inc.

Defendant.

Case No. 13-cv-1776

**PLAINTIFF STATES' NOTICE OF ELECTION
TO DECLINE INTERVENTION AND CONSENT TO VOLUNTARY DISMISSAL**

On behalf of the Plaintiff States¹ in this matter, undersigned counsel for the Pennsylvania Attorney General's Office, Medicaid Fraud Control Section and the Washington State Attorney General's Office, Medicaid Fraud Control Division ("States' Counsel") hereby file this Notice.

¹ The States of California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, and Vermont, as well as the Commonwealths of Massachusetts and Virginia, and the District of Columbia (collectively the "Plaintiff States"), have authorized the Commonwealth of Pennsylvania and State of Washington to notify the Court that the Plaintiff States have determined not to intervene and consent to voluntary dismissal without prejudice to the Plaintiff States.

Pursuant to the Washington Medicaid Fraud False Claims Act, RCW 74.66.050(1) and (4), and analogous provisions in the other Plaintiff States' respective false claims acts, States' Counsel notify the Court of the Plaintiff States' decision not to intervene in this action and the Plaintiff States' consent to dismissal of this action without prejudice to the rights of the Plaintiff States. The consent to dismissal is based on the Plaintiff States' determination that such dismissal is commensurate with the public interest and that the matter does not warrant the continued expenditure of government resources to pursue or monitor the action based on currently available information.

With respect to Maryland, regardless of whether the matter is dismissed, the Maryland False Claims Act provides, "[i]f the State does not elect to intervene and proceed with the action..., the court shall dismiss that action." Md. Code Ann., Health Gen., § 2-604(a)(7). Accordingly, Maryland requests that all claims asserted on its behalf be dismissed without prejudice regardless of whether the matter is formally dismissed by the Court.

Furthermore, in accordance with RCW 74.66.050(1), which allows the Relators to maintain the action in the name of the State of Washington and RCW 74.66.060(3), and with analogous provisions in the other Plaintiff States' respective false claims acts, the Plaintiff States request that all pleadings filed in this action be served upon the Plaintiff States. The Plaintiff States also request that orders issued by the Court be transmitted to the States' Counsel. The Plaintiff States reserve the right to order any deposition transcripts, to intervene in this action for good cause at a later date, and to seek the dismissal of the Relators' action or claim(s). The Plaintiff States also request that they be served with all notices of appeal.

A proposed Order accompanies this notice.

Respectfully submitted,

JOSH SHAPIRO
Pennsylvania Attorney General

Dated: September 24, 2019

By: /s/ Jason Karasik
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF system, which automatically serves notification of such filing on all Counsel of Record, and is available for viewing and downloading from the CM/ECF system.

Dated: September 24, 2019

/s/ Jason Karasik

Jason Karasik

Senior Deputy Attorney General

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ORDER

AND NOW, this ____ day of _____, _____, pursuant to RCW 74.66.050(1), (4) and analogous false claims acts of the other Plaintiff States, and the Plaintiff States having declined to intervene and having consented to voluntary dismissal without prejudice, it is hereby ORDERED that:

1. This Order, the Plaintiff States' Notice of Declination, and all other papers on file in this action shall be unsealed;

2. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the Plaintiff States, as provided for in RCW 74.66.030 and analogous Plaintiff States' false claims acts. The Plaintiff States may order any deposition transcripts and are entitled to intervene in this action, for good cause, at any time;

3. The parties shall serve all Notices of Appeal upon the Plaintiff States;

4. All orders of this Court shall be transmitted to the Plaintiff States;

5. If the Relators seek a voluntary dismissal of the Plaintiff States claims, such claims on behalf of the Plaintiff States are dismissed without prejudice;

6. In the alternative, if the Relators continue litigating this action on behalf of the Plaintiff States and the Relators or Defendants later propose that this action be dismissed, settled, or otherwise discontinued, the Court will provide the Plaintiff States with notice and an opportunity to be heard before ruling or granting approval thereto; and

7. In accordance with the Maryland False Health Claims Act, Md. Code Ann., Health Gen., § 2-604(a)(7), the State of Maryland having declined to intervene in this matter, all claims asserted on behalf of Maryland are dismissed without prejudice.

IT IS SO ORDERED.

BERLE M. SCHILLER
United States District Judge